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APACHE COUNTY SUPERIOR COURT

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE

IN THE MATTER OF:

JV 2008-065

CHRISTIAN RYAN ROMERO,
A person under 18 years of age

STATE'S REPLY TO
JUVENILE'S RESPONSE

Juvenile makes the claim that a detention hearing is inappropriate because more than 24 hours have passed since the juvenile was brought into custody at the Apache County Detention Center. However, Juvenile fails to recognize that this was not a "new" detention situation until, at the earliest, approximately 17 hours before the State filed its motion. Juvenile was transported to Apache County for the purpose of an adjudicatory hearing ordered by the Court. Subsequently was the hearing vacated and plans made for returning the Juvenile to his placement at YDI. If an error was made, it was one of compassion, since the juvenile was kept over an extra night so that he could have a visit with his grandmother. Only at approximately 4:00 on the afternoon of the next day, May 17, was it learned that YDI would not accept the Juvenile back into its facility. The State thereupon filed its motion for review first thing on the morning of May 18 leading us to the current situation. The important point is that the State has, in no way, been dilatory in its response, requesting the hearing as quickly as possible after learning of the situation with YDI. Further, it is YDI, at the recommendation of its legal counsel, which has chosen to ignore the Court's order, not the State.

The State's position is that the Juvenile is not in detention for purposes of Juvenile Rule

1 of Procedure 23. Apache County probation merely transported the Juvenile to Apache County
2 from his placement in Phoenix for the purposes of a Court ordered hearing. The logistics of such
3 a move require some time lapse between picking the Juvenile up at the treatment facility prior to
4 the hearing and returning him after. To require all of this to occur within a 24 hour window is
5 neither reasonable nor contemplated by the Rule on detentions. The Court determined at the
6 time of original disposition in this case that it was appropriate for the juvenile to remain in a
7 secured environment during his treatment. The Court has never amended that finding.

8 Nevertheless, if the Court determines that Juvenile is currently in detention for purposes
9 of Rule 23, then that status could only have been created upon the State becoming aware of
10 YDI's intention not to accept the Juvenile back into their facility at approximately 4:00 p.m.
11 yesterday. Thus, the deadline for filing a motion would have been 4pm today. In fact, the
12 motion was filed at approximately 9:00 a.m. this morning.

13 The State has acted in absolute good faith and should not be penalized for the acts of third
14 parties, not within the control of Apache County. YDI, not the State created this issue when it
15 chose, in defiance of the Court's specific order not to accept the Juvenile back into its facility.

16 Further, the interests of both the Juvenile and public require that the Juvenile remain in a
17 secured environment. The Court found at disposition that outpatient treatment is inappropriate
18 for this Juvenile. That situation has not changed. Indeed the parties are presently before this
19 Court on numerous allegations that the Juvenile is acting in a manner that places both himself and
20 the public at risk. The danger to public is based both on his original offenses, as well as
21 allegations of new offenses committed while in YDI in violation of his terms of probation.
22 Further, the evaluations of both Dr. Sciali and Dr. Uram note that this Juvenile continues to pose
23 a risk to the public. In addition, release on the basis suggested by the Juvenile would
24 re-victimize the victim representatives who have had no opportunity for input on this issue.

25 Language of plea agreement entered into in this matter requires several procedural steps,
26 the most important of which is that the Court ordered that there would be no change of
27 confinement conditions without notice and opportunity for everyone to be heard. It would thus be
28 a violation of the terms of the plea agreement if the Juvenile were furloughed to his grandmother

at this point.

The State also wishes to remind the Court that it ordered a substantial amount of discretionary detention time in this matter. Thus, pursuant to Rule 31(c) the Court may also modify its terms of probation, without the requirement of further proceedings ordering the Juvenile to remain in his present location at the Apache County Detention Facility until such time as the dispute with YDI is resolved or other suitable placement is arranged. Under no circumstances may the juvenile be furloughed or released under the terms of his original disposition.

For the reasons stated, the State respectfully requests this Court to deny Juvenile's motion for furlough. The State further requests the Court to order that the Juvenile be held in a secure condition until such time as YDI either accedes to the Court's previous order or another suitable placement is found.

Respectfully submitted this 18th day of May, 2012.


C. ALLAN PERKINS
Chief Deputy County Attorney

A COPY of the foregoing
mailed/delivered this
18th day of May, 2012, to:

Ronald D. Wood
Counsel for Juvenile
Christian Romero

The Honorable
Monica L. Stauffer